

## **Governor's Authority to Perform Executive Branch Reorganizations**

### **Government Code Sections 12080-12081.2**

12080. As used in this article:

(a) "Agency" means any statewide office, nonelective officer, department, division, bureau, board, commission or agency in the executive branch of the state government, except that it shall not apply to any agency whose primary function is service to the Legislature or judicial branches of state government or to any agency that is administered by an elective officer. "Agency that is administered by an elective officer" includes the State Board of Equalization but not a board or commission on which an elective officer serves in an ex officio capacity.

(b) "Reorganization" means:

(1) The transfer of the whole or any part of any agency, or of the whole or any part of the functions thereof, to the jurisdiction and control of any other agency; or

(2) The abolition of all or any part of the functions of any agency; or

(3) The consolidation or coordination of the whole or any part of any agency, or of the whole or any part of the functions thereof, with the whole or any part of any other agency or the functions thereof; or

(4) The consolidation or coordination of any part of any agency or the functions thereof with any other part of the same agency or the functions thereof; or

(5) The authorization of any nonelective officer to delegate any of his functions; or

(6) The abolition of the whole or any part of any agency which agency or part does not have, or upon the taking effect of a reorganization plan will not have, any functions.

(7) The establishment of a new agency to perform the whole or any part of the functions of an existing agency or agencies.

(c) "Resolution" means a resolution of either house of the Legislature resolving as follows:

"That the \_\_\_\_\_ does not favor  
(Assembly or Senate)  
Reorganization Plan No. \_\_\_\_\_ transmitted to  
(Insert number of plan)  
the Legislature by the Governor on \_\_\_\_\_  
(Insert date of transmittal)  
and recommends that the plan be assigned to the

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(Insert appropriate committee)."

12080.1. The Governor, from time to time, shall examine the organization of all agencies and shall determine what changes therein are necessary to accomplish one or more of the following purposes:

(a) To promote the better execution of the laws, the more effective management of the executive and administrative branch of the state government and of its agencies and functions and the expeditious administration of the public business;

(b) To reduce expenditures and promote economy to the fullest extent practicable consistent with the efficient operation of the state government;

(c) To increase the efficiency of the operation of the state government to the fullest extent practicable;

(d) To group, consolidate and coordinate agencies and functions thereof as nearly as possible according to major purposes;

(e) To reduce the number of agencies by consolidating those having similar functions under a single head and to abolish such agencies or functions thereof as may not be necessary for the efficient operation of the state government;

(f) To eliminate overlapping and duplication of effort.

The Legislature declares that the public interest requires the carrying out of the purposes set forth in this section, and that such purposes may be accomplished more speedily and effectively under this article than by the enactment of specific legislation.

12080.2. Whenever the Governor finds that reorganization is in the public interest, he shall prepare one or more reorganization plans in the form and language of a bill as nearly as practicable and transmit each, bearing an identifying number, to the Legislature, with a declaration that, with respect to each reorganization included in the plan, he has so found. The delivery to both houses may be at any time during a regular session of the Legislature. The Governor, in his message transmitting a reorganization plan, shall explain the advantages which it is probable will be brought about by the taking effect of the reorganization included in the plan, and he shall specify with respect to each abolition of a function included in the plan the statutory authority for the exercise of the function.

Reorganization plans submitted to the Legislature pursuant to this section shall express clearly and specifically the nature and purposes of the plan or plans.

Upon receipt of a reorganization plan, the Rules Committee of the Senate and the Speaker of the Assembly shall refer the plan to a standing committee of their respective houses for study and a report. Such report shall be made at least 10 days prior to the end of the 60-day period described in Section 12080.5 and may include the committee's recommendation with respect to a resolution.

A resolution, by floor motion, as defined in subdivision (c) of Section 12080, may only be in order following a committee report or at any time during the last 10 days prior to the end of the 60-day period described in Section 12080.5. Such resolution shall be voted upon without referral to committee.

12080.3. Each reorganization plan transmitted by the Governor under this article: May change the name of any agency affected by a reorganization and the title of its head, and shall designate the name of any agency resulting from a reorganization and the title of its head;

May include provisions, in accordance with Article XXIV of the Constitution, for the appointment of the head and one or more other officers of any agency, including an agency resulting from a consolidation or other type of reorganization, if the Governor finds, and in his message transmitting the plan declares, that by reason of a reorganization made by the plan such provisions are in the public interest. The head so provided for may be an individual, or may be a commission or board with two or more members, but in any case the appointment of such agency head shall be subject to confirmation by the Senate. The term of office of any appointee, if any is provided, shall be fixed at not more than four years. The Legislature shall fix the compensation of all such department heads and such officers as are not subject to the provisions of Article 24 of the California Constitution.

(c) Shall make provision for the transfer of employees serving in the state civil service, other than temporary employees, who are engaged in the performance of a function transferred to another agency, or engaged in the administration of a law, the administration of which is transferred to such agency, by the reorganization plan. The status, positions, and rights of such persons shall not be affected by their transfer and shall continue to be retained by them pursuant to the State Civil Service Act, except as to positions the duties of which are vested in a position exempt from civil service.

(d) Shall make provision for the transfer or other disposition of the personnel records and property, affected by any reorganizations;

(e) Shall make provision for the transfer of such unexpended balances of appropriations and of other funds available for use in connection with any function or agency affected by a reorganization, as he deems necessary by reason of the reorganization, for use in connection with the functions affected by the reorganization, or for the use of the agency which has such functions after the reorganization plan is effective. Unexpended balances so transferred shall be used only for the purpose for which the appropriation was originally made ;

(f) Shall make provision for terminating the affairs of any agency abolished;

(g) Shall enumerate all acts of the Legislature which will be suspended if the reorganization plan becomes effective.

12080.4. No reorganization plan shall provide for, and no reorganization under this article shall have the effect of:

(a) Continuing any agency beyond the period authorized by law for its existence, or beyond the time when it would have terminated if the reorganization had not been made ;

(b) Continuing any function beyond the period authorized by law for its exercise, or beyond the time when it would have terminated if the reorganization had not been made;

(c) Authorizing any agency to exercise any function which is not expressly authorized by law to be exercised by an agency in the executive branch at the time the plan is transmitted to the Legislature;

(d) Increasing the term of any office beyond that provided by law for the office; or

(e) Abolishing any agency created by the California Constitution, or abolishing or transferring to the jurisdiction and control of any other agency any function conferred by the California Constitution on an agency created by that Constitution.

12080.5. Except as otherwise provided in this section, a reorganization plan submitted pursuant to this article shall become effective the first day after 60 calendar days of continuous session of the Legislature after the date on which the plan is transmitted to each house or at a later date as may be provided by the plan, unless, prior to the end of the 60-calendar-day period, either house of the Legislature adopts by a majority vote of the duly elected and qualified members thereof a resolution, as defined in subdivision ( c ) of Section 12080. As used in this section "60 calendar days of continuous session" shall be deemed broken only by an adjournment sine die, but in computing the 60 calendar days for the purposes of this provision days on which either house is not in session because of a recess of more than 10 days to a day certain shall not be included.

12080.6. No reorganization plan shall have the effect of limiting in any way the validity of any statute enacted, or any regulation or other action made, prescribed, issued, granted or performed in respect to or by any agency before the effective date of the reorganization plan except to the extent that the plan specifically so provides. As used in this section "regulation or other action" means any regulation, rule, order, policy, determination, directive, authorization, permit, privilege, requirement, designation, or other action.

12080.7. No suit, action or other proceeding lawfully commenced by or against the head of any agency or other officer of the state, in his official capacity or in relation to the discharge of his official duties, shall abate by reason of the taking effect of any reorganization plan under the provisions of this article.

12080.8. From the effective date of a reorganization plan, and as long as it is in effect, the operation of any prior act of the Legislature inconsistent therewith shall be suspended insofar as it is inconsistent with the reorganization plan.

12080.9. Each reorganization plan which takes effect shall be printed in the same volume as the acts of the session of the Legislature to which it was submitted.

12081. The Legislative Counsel shall prepare for introduction not later than the next regular session of the Legislature occurring more than 90 days after that in which a Governor's reorganization plan takes effect a bill effecting such changes in the statutes as may be necessary to reflect the changes made by the reorganization plan.

The purpose of this section is to insure that statutory law is amended to conform with the changes made by the reorganization plan, but failure to enact such a bill shall not affect the validity of the plan.

12081.1. It is the intention of the Legislature in delegating legislative power to the Governor by this article pursuant to the authorization contained in Section 6 of Article V of the California Constitution to retain the right of review of the Governor's action by means of action by either house of the Legislature recommending study of any proposal submitted to it.

12081.2. If any provision of this act or the application thereof, except Section 12080.5, to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act, except Section 12080.5, are severable.